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INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE
ALCOHOL AND TOBACCO TAX DIVISION



WASHINGTON 25, D. C.

Industry Circular No. 62-7

March 13, 1962

CLAIMS FOR LOSSES OF SPIRITS WITHDRAWN FOR RECTIFICATION OR BOTTLING

Proprietors of distilled spirits plants
and others concerned:

Purpose. This circular is issued to inform proprietors who conduct "custom" bottling operations of the provisions of Revenue Ruling 62-37, which will be published in Internal Revenue Bulletin No. 12, of March 19, 1962. The ruling concerns refund or credit of tax under section 5008(c), Internal Revenue Code.

Background. Section 5008(c)(2)(A) of the Code provides that no abatement, remission, credit, or refund of taxes shall be made for loss of spirits withdrawn from bond for rectification or bottling where the claimant is indemnified or recompensed for the tax.

Also, section 201.482 of the Distilled Spirits Plants regulations provides that no abatement, remission, credit, or refund of tax shall be made in respect of such losses to the extent that the claimant is indemnified or recompensed for the tax.

In a somewhat similar case, Revenue Ruling 60-201, C.B. 1960-1, 712, precludes the allowance of a claim for refund or credit of tax to a brewer who does not give a credit allowance to his customer for beer removed from the market. The brewer is considered indemnified by the customer through payment for the beer.

Effect of Ruling. Under Revenue Ruling 62-37, if a bottler of distilled spirits collects from his customer the full amount of tax determined at the time of regauge and allows the customer no credit for losses incurred in bottling operations, the bottler is considered recompensed for the tax, and allowance of the bottler's claim for credit is precluded by section 5008(c)(2)(A) of the Code. If a bottler of distilled spirits does not make a practice of repaying or crediting to the persons who advance money to pay the tax on the distilled spirits withdrawn from bond an appropriate amount for the allowable loss, he must bear the burden of establishing the amount of allowable loss for which he was not recompensed.

However, if the bottler has a systematic and regular procedure for crediting or refunding an appropriate amount in respect of allowable loss to persons who advanced the money to pay the tax, such practice or procedure may be accepted by the Revenue Service as meeting the requirements of section 5008(c)(2)(A) of the Code if the claimant states in the claim that he has followed (or, in the case of a tentative claim, that he will follow) such practice or procedure with respect to the particular claim.

Applicability. This revenue ruling is applicable only to "custom" bottling operations, and not to the ordinary bottling operation in which the customer does not furnish the money for the tax.

Inquiries. Inquiries concerning this circular should refer to its number and be addressed to your Assistant Regional Commissioner, Alcohol and Tobacco Tax.



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